

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07-CV-517-GCM

JOLLIET KELLY JR.,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

)

ORDER

THIS MATTER comes before the Court on the Petitioner's "Motion to Reconsider," filed February 25, 2008 (Doc. No.5). For the reasons stated herein, the instant Motion is **DENIED**.

Pursuant to a written plea agreement, Petitioner pled guilty to charges of conspiracy to possess with intent to distribute, and to distribute, cocaine base on April 17, 2005.¹ Petitioner was sentenced on December 13, 2006. Petitioner did not appeal his conviction or his sentence. On December 10, 2007, the Petitioner filed a motion to vacate under 28 U.S.C. §2255. The Court denied and dismissed the motion to vacate in an Order entered on December 20, 2007. (Doc. No. 2).

A review of the Petitioner's instant filing reveals it is not properly brought as a motion to reconsider under Federal Rule of Civil Procedure 60(b), but an attempt to relitigate his motion to vacate claims. Petitioner's motion to reconsider is, in essence, a successive 28 U.S.C §2255 motion, which this Court does not have jurisdiction to hear. See United States v. Winestock, 340

¹ A more fullsome history of the case is laid out in the Court's Order dismissing Petitioner's Motion to Vacate, entered on December 20, 2007.

F.3d 200 (4 th Cir. 2003), cert denied, 540 U.S. 995 (2003). Accordingly, the instant Motion is
DENIED.

Signed: September 20, 2010



Graham C. Mullen
United States District Judge

